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10/782,471	02/19/2004	Thomas L. Michaels	MV-6177/6206	4908

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Attn: Kim Luna  
ALLEGIANCE CORPORATION  
1430 Waukegan Rd  
McGaw Park, IL 60085

EXAMINER
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RIVELL, JOHN A

ART UNIT	PAPER NUMBER
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3753

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,471	<b>Applicant(s)</b> MICHAELS ET AL.	
	<b>Examiner</b> JOHN RIVELL	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/9/08 (election).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-17 and 21-27 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Applicant's election with traverse of the invention of Group I, claims 1-7 and 14-27 in the reply filed on January 9, 2008 is acknowledged. The traversal is on the ground(s) that examination of claims to two distinct groups of invention will not constitute an additional burden on the Examiner and that the Examiner has not identified a serious burden present. This is not found persuasive because as set forth in the Restriction Requirement of November 16, 2007, as is Office practice, there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, the inventions require a different field of search (see MPEP § 808.02) and that the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Additionally, prosecution of all of the claimed inventions in this application will potentially lead down radically divergent paths of potential patentability. To prosecute several radically different patentable paths in a single application clearly presents a serious burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claims 8-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on January 9, 2008.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3753

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7 are rejected under 35 U.S.C. §102 (b) as being anticipated by Buchanan et al. (U. S. Pat. No. 4,386,637).

The patent to Buchanan et al. clearly discloses a “conduit means (at both conduits 16 and 26) adapted to transport associated waste (contained within container 16) fluid from an associated receptacle (10) to an associated suction means (at eductor 28), comprising; a first conduit (16) having a first end adapted to receive the associated waste fluid from the associated receptacle (10) and a second end, wherein the first conduit is adapted to be substantially received within the associated receptacle (10 as shown in fig. 1); a first connector (that coupling half connected to the end of conduit 16 outside of the container 16) attached to the second end (the end outside of the container) of the first conduit (16); a second conduit (26) having a first end and a second end adapted to connect to the associated suction means (28); a second connector (that coupling half connected at the end of valve 24 which is) attached to the first end of the second conduit (26), wherein the second connector includes a flow direction device (check valve 24); and, wherein the first connector and second connector are selectively connectable to each other” as recited in claim 1.

Regarding claim 7, in Buchanan et al., “the first conduit (16 is, as shown) of sufficient length to be usable in multiple associated receptacle sizes” as recited.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3753

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. (U. S. Pat. No. 4,386,637) in view of Cook et al. (U. S. Pat. No. 5,725,516).

The patent to Buchanan et al. discloses all the claimed features with the exception of having “the flow direction device (comprise) a flap; and, the first connector (comprise) an inner wall having a first end that causes the flap to pivot to an open position when the first connector and second connector are connected to each other” (claim 2) and “wherein the first end of the inner wall of the first connector has at least a first scallop for use in preventing occluding at the interface of the first end of the inner wall and the flap” (claim 6).

The patent to Cook et al. discloses, particularly in figures 20 and 21, that it is known in the art to employ a valved coupling comprising “a flap (308)... (a) first connector (comprising) an inner wall (defining passageway 312) having a first (upper) end that causes the flap (308) to pivot to an open position when the first connector and second connector (receiving portion of the valved coupling half) are connected to each other (and) wherein the first (upper) end of the inner wall (defining passageway 312) of the first connector has at least a first scallop (303) for use in preventing occluding at the interface of the first end of the inner wall and the flap (308)” for the purpose of providing

a valved coupling, actuated in the act of coupling the two halves together to retain one end of the coupled halves closed prior to coupling of the two conduit sections together preventing leakage from that valved half.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Buchanan et al., in place of the separate check valve mechanism 24 in the suction line, a valved coupling in the coupling mechanism coupling the two conduits 26 and 16 together, including a flap valve element pivoted open in the act of coupling the halves together by an upstanding male counterpart in the opposite coupling half, the male counterpart including scallops on the end of the male element to prevent occlusion of the interface of the male element and the flap valve for the purpose of providing a valved coupling, actuated in the act of coupling the two halves together to retain one end of the coupled halves closed prior to coupling of the two conduit sections together preventing leakage from that valved half as recognized by Cook et al. Such a modification clearly substitutes one known device such as the valved coupling of Cook et al. for another known, the separate check valve 24 of Buchanan et al. to obtain the predictable results of preventing leakage from the unattached coupling half that includes the valve element.

Claim 3 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. (U. S. Pat. No. 4,386,637) in view of Cook et al. (U. S. Pat. No. 5,725,516) as applied to claims 2 and 6 above, further in view of Uhl et al. (WO 00/12403 published March 9, 2000. See U. S. Pat. No. 6,543,654 for translation).

The patent to Buchanan et al. as modified by Cook et al., discloses all the claimed features with the exception of having "the first connector further (comprise): an outer wall; and, an inner support member that connects the outer wall and the inner wall, the inner support member having a plurality of holes for use in enabling the

pressure inside the associated receptacle to be equalized with pressure outside the associated receptacle”.

The document to Uhl et al. discloses, in figure 2 for example, that it is known in the art to employ a coupling connecting a suction conduit to a container to remove material from the container in which the coupling includes a first connector at 5, attached to a tube extending within the container 2 removing fluid from within the container 2, which connector includes an outer wall, read at 5a, the outer wall 5a connected to an inner wall at 5b by a web which web includes a port for the purpose of allowing air to pass into the container simultaneously with fluid removed from the container to prevent collapse of the container.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Buchanan et al., as modified by Cook et al. a coupling half connected to the container side of the coupling, which coupling half includes a web connecting inner and outer walls, the web including a passage allowing for the passage of air into the container simultaneously with the removal of fluid from the container for the purpose of preventing the collapse of the container as recognized by Uhl et al. Clearly the above purports to combine prior art elements, such as the utilizing an air passage located within the same coupling as the fluid path, according to known methods as taught by Uhl et al., to obtain the predictable results of allowing air to pass simultaneously with the removal of fluid to prevent collapse of the container.

Alternatively, the above clearly purports to utilize a known technique, such as providing for the introduction of air into a container simultaneously with the removal of fluid, to prevent collapse of the container, in the prior art device of Buchanan et al. so as to prevent collapse of the container of Buchanan et al. by allowing the introduction of air into the container through the same coupling that removes fluid from the container.

Claims 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. (U. S. Pat. No. 4,386,637) in view of Vander Molen et al. (U. S. Pat. No. 4,285,445).

The patent to Buchanan et al. discloses an “apparatus for use in transporting associated waste fluid from an associated receptacle (10) to an associated disposal site, comprising: a first conduit (16) having a first end adapted to receive the associated waste fluid from the associated receptacle (10) and a second end, wherein the first conduit (16) is adapted to be substantially received within the associated receptacle (10); a first connector (that coupling half connected to the end of conduit 16 outside of the container 16) attached to the second end of the first conduit; a second conduit (26) having a first end and a second end adapted to connect to the associated suction means (at eductor 28); a second connector (that coupling half connected at the end of valve 24 which is) attached to the first end of the second conduit (26), wherein the second connector includes a flow direction device (check valve 24), wherein the first connector and second connector are selectively connectable to each other; an eductor pump assembly comprising: (i) a water inlet (at 30) adapted to receive associated water from an associated pressurized water source;... (iii) an eductor (28) having a first inlet that receives water from (inlet pipe 30) and a second inlet that receives the associated waste fluid (from conduit 26); and, (iv) an outlet (32) for use is communicating the associated water and the associated waste fluid to the associated disposal site” as recited in claim 14.

Thus the patent to Buchanan et al. discloses all the claimed features with the exception of having “a valve for use in activating the eductor pump assembly”.

The patent to Vander Molen et al. discloses that it is known in the art to employ a valve at 44, used to control the flow of fluid to an eductor assembly 45, which eductor



assembly is used to remove fluid from a container 10 for the purpose of controlling the removal of fluid from a container by controlling the drive fluid flow to an eductor assembly connected to a container suction line 53.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Buchanan et al. a control valve in line 30 for the purpose of controlling the flow of drive fluid to the eductor assembly 28, thus controlling the removal of fluid from the container 10 as recognized by Vander Molen et al.

Regarding claim 21, in making and/or using the device of the above combination, one necessarily performs a "method of transporting associated waste fluid from an associated receptacle (10 of Buchanan et al.) to an associated sanitary sewer (at 32 of Buchanan et al.), comprising the steps of: providing an eductor pump assembly (28 of Buchanan et al.) comprising (i) a water inlet (30 of Buchanan et al.) adapted to receive associated water from an associated pressurized water source; (ii) a valve (44 as taught by Vander Molen et al. to control eductor drive fluid flow); (iii) an eductor (18 of Buchanan et al.) having a first inlet that receives water from the valve (44 of Vander Molen et al.) and a second inlet (connected to conduit 26) that receives the associated waste fluid; and, (iv) an outlet (at 32 of Buchanan et al.) for use in communicating the associated water and the associated waste fluid to the associated sanitary sewer; providing a conduit means (16 and 26 of Buchanan et al.) adapted to transport associated waste fluid from the associated receptacle (10 of Buchanan et al.) to the eductor pump assembly (28 of Buchanan et al.) comprising (i) a first conduit (16 of Buchanan et al.) having a first end (within container 10) adapted to receive the associated waste fluid from the associated receptacle (10) and a second end (outside of the container 10); (ii) a first connector (that coupling half connected to the end of conduit

16 outside of container 10) attached to the second end of the first conduit (16 of Buchanan et al.); (iii) a second conduit (26 of Buchanan et al.) having a first end and a second end; (iv) a second connector (that coupling half connected to the end of conduit 26 which is connected to the outside end of the first conduit 16) attached to the first end of the second conduit (26), wherein the second connector includes a flow direction device (check valve 24); attaching the second end of second conduit (26) to the second inlet of the eductor (28 of Buchanan et al.); positioning the first conduit (16 of Buchanan et al.) substantially within the associated receptacle (10 of Buchanan et al.); connecting the first connector to the second connector; and, activating the eductor pump assembly (28 of Buchanan et al.)” as recited.

Claims 15, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. (U. S. Pat. No. 4,386,637) in view of Vander Molen et al. (U. S. Pat. No. 4,285,445) as applied to claims 14 and 21 above, further in view of Cook et al. (U. S. Pat. No. 5,725,516).

The patent to Buchanan et al., as modified by Vander Molen et al., discloses all the claimed features with the exception of having “the flow direction device (comprise) a flap; and, the first connector (comprise) an inner wall having a first end that causes the flap to pivot to an open position when the first connector and second connector are connected to each other” (claim 15) The patent to Cook et al. discloses, particularly in figures 20 and 21, that it is known in the art to employ a valved coupling comprising “a flap (308)... (a) first connector (comprising) an inner wall (defining passageway 312) having a first (upper) end that causes the flap (308) to pivot to an open position when the first connector and second connector (receiving portion of the valved coupling half) are connected to each other (and) wherein the first (upper) end of the inner wall (defining passageway 312) of the first connector has at least a first scallop (303) for use

in preventing occluding at the interface of the first end of the inner wall and the flap (308)" for the purpose of providing a valved coupling, actuated in the act of coupling the two halves together to retain one end of the coupled halves closed prior to coupling of the two conduit sections together preventing leakage from that valved half.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Buchanan et al., as modified by Vander Molen et al., in place of the separate check valve mechanism 24 in the suction line, a valved coupling in the coupling mechanism coupling the two conduits 26 and 16 together, including a flap valve element pivoted open in the act of coupling the halves together by an upstanding male counterpart in the opposite coupling half, the male counterpart including scallops on the end of the male element to prevent occlusion of the interface of the male element and the flap valve for the purpose of providing a valved coupling, actuated in the act of coupling the two halves together to retain one end of the coupled halves closed prior to coupling of the two conduit sections together preventing leakage from that valved half as recognized by Cook et al.

Regarding claim 22, in making and/or using the device of the above combination, one necessarily performs a method step comprising "opening the flow direction device" e.g. flap 308 of Cook et al., in the act of coupling the first conduit 16 to the second conduit 24 of Buchanan et al.

Regarding claim 23, in making and/or using the device of the above combination, one necessarily performs a method step comprising "contacting a first end of an inner wall on the first connector against a flap (308 of Cook et al.) within the second connector; and, pivoting the flap thereby permitting fluid to flow"

Regarding claim 24, in making and/or using the device of the above combination, one necessarily performs a method step comprising "activating the eductor pump

assembly (28 of Buchanan et al. with the control valve of Vander Molen et al. by) opening valve (taught at 44 of Vander Molen et al.) by turning a handle on the valve”

Regarding claim 25, in making and/or using the device of the above combination, one necessarily performs a method step in which “after the step of activating the eductor pump assembly (28 of Buchanan et al. by the control valve 44 taught by Vander Molen et al.), the method further comprises the steps of: separating the first connector from the second connector; discarding the first conduit (16 of Buchanan et al.) along with the associated receptacle (10 of Buchanan et al.); and, maintaining the second conduit (26) for reuse” when it is decided that the receptacle 10 is of no further use.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. (U. S. Pat. No. 4,386,637) in view of Vander Molen et al. (U. S. Pat. No. 4,285,445) as applied to claims 14 and 21 above, further in view of Cook et al. (U. S. Pat. No. 5,725,516) as applied to claims 15, and 22-25 above, further in view of Uhl et al. (WO 00/12403 published March 9, 2000. See U. S. Pat. No. 6,543,654 for translation).

The patent to Buchanan et al., as modified by Vander Molen et al., and Cook et al., discloses all the claimed features with the exception of having “the first connector further (comprising): an outer wall; and, an inner support member that connects the outer wall and the inner wall, the inner support member having a plurality of holes for use in enabling the pressure inside the associated receptacle to be equalized with pressure outside the associated receptacle”.

The document to Uhl et al. discloses, in figure 2 for example, that it is known in the art to employ a coupling connecting a suction conduit to a container to remove material from the container in which the coupling includes a first connector at 5, attached to a tube extending within the container 2 removing fluid from within the

container 2, which connector includes an outer wall, read at 5a, the outer wall 5a connected to an inner wall at 5b by a web which web includes a port for the purpose of allowing air to pass into the container simultaneously with fluid removed from the container to prevent collapse of the container.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Buchanan et al., as modified by Vander Molen et al. and Cook et al., a coupling half connected to the container side of the coupling, which coupling half includes a web connecting inner and outer walls, the web including a passage allowing for the passage of air into the container simultaneously with the removal of fluid from the container for the purpose of preventing the collapse of the container as recognized by Uhl et al.

Claims 16, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. (U. S. Pat. No. 4,386,637) in view of Vander Molen et al. (U. S. Pat. No. 4,285,445) as applied to claims 14 and 21 above, further in view of Cook et al. (U. S. Pat. No. 5,725,516) as applied to claims 15, and 22-25 above, further in view of Walker (U. S. Pat. No. 5,741,237).

The patent to Buchanan et al., as modified by Vander Molen et al. and Cook et al., discloses all the claimed features with the exception of having “the associated receptacle (include) a cap having a first tower and a lid used to cover the first tower, the first connector further comprising: an outer wall having an upper end adapted to receive the lid of the associated receptacle” (claim 16)”.

The International document to Walker discloses that it is known in the art to employ a “tower” at container connectors 46, 60, 34 each tower having its own unique cap 53, 63, 42, respectively, for the purpose of closing off the connection when attached

conduits are no longer connected to retain the fluid contents of the container within the container.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Buchanan et al., as modified by Vander Molen et al. and Cook et al. caps attachable to the container "towers" of Buchanan et al. for the purpose of closing off the connection when attached conduits are no longer connected to retain the fluid contents of the container within the container as recognized by Walker.

Regarding claim 26, in making and/or using the device of the above combination, one necessarily performs a method step "wherein the associated receptacle (10 of Buchanan et al.) includes a cap (as taught by Walker) with at least a first tower defining an opening into the associated receptacle, wherein the step of positioning the first conduit substantially within the associated receptacle, comprises the step of: attaching the first connector to the associated tower" as recited.

Regarding claim 27, in making and/or using the device of the above combination, one necessarily performs a method step "wherein the associated receptacle (10 of Buchanan et al.) includes a lid (cap of Walker) used to cover the first tower, wherein after the step of separating the first connector from the second connector (as taught by Buchanan et al. and Cook et al.) but before the step of discarding the first conduit (16 of Buchanan et al.) along with the associated receptacle (10 of Buchanan et al.), the method further comprises the step of: covering the first connector with the associated lid" taught by Walker.

Claims 4, 5, 18, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN RIVELL whose telephone number is (571)272-4918. The examiner can normally be reached on Mon.-Fri. from 6:00am-2:30pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/John Rivell/  
John Rivell  
Primary Examiner  
Art Unit 3753**

j.r.